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INDEX

	Page
Question Presented	1
Argument	2
A. Preliminary	2
B. The Federal Criminal Case Did Not Establish Lack of Moral Turpitude	2
C. The Instant Disciplinary Proceeding Is Altogether Separate and Distinct From the Criminal Case	5
D. For Purpose of Regulating the Practice of Law, the Missouri Supreme Court Validly and Properly Treated Petitioner's Federal Conviction as Grounds for Disciplinary Action	6
E. Missouri Acted Reasonably and Appropriately	10
Conclusion	12
Appendix A	A-1
Appendix B	A-2
Appendix C	A-3
Appendix D	A-8
Appendix E	A-9

Cases Cited

Ex parte Wall, 107 U.S. 265, l. c. 288, 1882 5

In Re Burrus, 258 S.W. (2d) 625, Mo., 1953 11

In Re Isserman, 345 U.S. 286 (1953) 9, 12

In Re Lurkins, 374 S.W. (2d) 67, Mo., 1964 11
In Re McMullin, 370 S.W. (2d) 151, Mo., 1953 11
In Re McNeese, 142 S.W. (2d) 33-4, Mo., 1940 10
In Re Randolph, 347 S.W. (2d) 91, Mo. 1961, Cert. Den. 368 U.S. 916 6
In Re Ruffalo, 390 U.S. 544, 1968 5
Konigsberg v. State Bar, 353 U.S. 252, l.c. 273, 1957... 8,9
Konigsberg v. State Bar, 366 U.S. 36, 1961 8
Ky. State Bar v. Brown, 302 S.W. (2d) 834, Ky. 1957 7
La. State Bar v. Connolly, 20 So.(2d) 168, La., 1944 .. 7
MacLeod v. U. S., 402 U.S. 907 5
Mine Workers v. Ill. Bar Assn., 389 U.S. 217, l.c. 222, 1967 7
N.A.A.C.P. v. Button, 371 U.S. 415, 1963 .....8, 11
Neibling v. Terry, 177 S.W. (2d) 502, Mo., 1944 10
Railroad Trainmen v. Virginia Bar, 377 U.S. 1, l.c. 6, 1964 8
Re Hallinan, 272 P.(2d) 768, Calif. 1954 7
Schware v. Board of Bar Examiners, 353 U.S. 232, 1957 8,9
Selling v. Radford, 243 U.S. 46, 1917 .....9, 12
Spevack v. Klein, 385 U. S. 511, 1967 5
Thread v. U.S., 354 U.S. 278, l.c. 281, 1957 .....7, 12
U. S. v. MacLeod, 436 F. (2d) 947, 8 Cir., 1971, cert. den. 402 U.S. 907 4

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1971

No. 72-202

IN RE: DOUGLAS C. MacLEOD,
Petitioner.

RESPONDENTS' BRIEF IN OPPOSITION

Pursuant to Rule 40, for purposes of the Petition for Review, the Advisory Committee of the Missouri Bar Administration, Respondents, will make no additional statement of the case, and will also accept as satisfactory the Petitioner's presentations of the opinion below, the jurisdictional statement, and the constitutional and statutory provisions and rule of court involved in the case. We shall include herewith some additional appendix material, and we do not agree with the Petitioner's statement of the questions presented for review. In our viewpoint, the question is as follows:

QUESTION PRESENTED

Whether the Petitioner Was Denied His Constitutional Right to Due Process of Law When the Supreme Court of Missouri, Pursuant to the Statute, Its Own Supplementary Rule, and Its Long Standing Line of Decisions, Disciplined Him by Reason of His Federal Conviction of Willfully Failing to File Income Tax Returns.

ARGUMENT

A. Preliminary.

The petitioner has made no contention in his petition that the Missouri disciplinary proceeding which culminated in his suspension was lacking in procedural due process of law. Neither has he contended that, in comparison with prior Missouri disciplinary proceedings involving other attorneys, he has been dealt with harshly, unequally, or discriminatorily. As we interpret the footnote on page 13 of the within Petition, he concedes that, under a properly worded statute or supreme court rule (or both), the State of Missouri would have the constitutional authority to suspend from the practice of law in Missouri an attorney convicted, as he was, of violating 26 U.S.C., § 7203, relating to willful failure to file federal income tax returns. Thus, the issue is narrowed to the question of the constitutional validity of the petitioner's suspension under existing statutes, rules, and decisions.

B. The Federal Criminal Case Did Not Establish Lack of Moral Turpitude.

Basically, the petitioner's contentions (in Section I, p. 12, *et seq.*) are that he has not been convicted of an offense involving moral turpitude within the meaning of the disciplinary statute and rules of the State of Missouri. His first argument is that the criminal case against him established, as the "law of the case," that he was not guilty of an offense involving moral turpitude. We contend that the criminal conviction did not establish either the absence or the presence of that category of criminal conduct.

The petitioner develops his point in this manner: (1) In the criminal proceeding, he offered an instruction to

the effect that the jury could not convict unless it found that he acted as a result of his own moral turpitude; (2) that such instruction was refused by the trial judge; (3) that he contended on appeal that the refusal to give the instruction was erroneous; (4) that the U. S. Attorney argued on appeal that the offense did **not** involve moral turpitude; (5) that the appellate court did not reverse the conviction; (6) therefore the "law of the case" was established that there was no moral turpitude.

The fallacy of this line of argument is that "moral turpitude", as a label or element, is not referred to in either the statute or the indictment under which petitioner was convicted. The statute provides that:

> "Any person . . . who willfully fails to . . . make such [income tax] return . . . shall . . . be guilty of a misdemeanor and . . . shall be fined . . . or imprisoned . . ." (26 U.S.C., § 7203).

Under the statute, the quality of misconduct which leads to a conviction is **willfulness.** Whether the term "willfully" is the same as, equivalent to, or different from the quality known as "moral turpitude" does not matter for purposes of the statutory definition of the offense.

The jury, in petitioner's tax trial, was instructed that:

> "The word 'willful' as used in the statute . . . means voluntary, purposeful, deliberate, and with the specific intent to do that which the law forbids, as distinguished from accidental, inadvertant or negligent . . . On the other hand, if his act was done with bad purpose either to disobey or disregard the law then his act was willful." (App. A)

The petitioner has correctly indicated that the federal courts have agonized considerably as to the element of willfulness and intent in tax prosecutions (Petn. p. 16).

But no federal court (that we can find, or that petitioner has cited) has passed upon the term willfullness in these tax cases in terms of moral turpitude or the lack thereof; the obvious reason being that any such question would have been entirely extraneous for purposes of determining guilt or innocence. But the petitioner would have injected that precise alien element into this case if his instruction hypothesizing moral turpitude had been superimposed upon the court's above-quoted description of willfulness as that term was used in the statute.

The petitioner contends that the appellate affirmance of the conviction constituted a holding that he was not guilty of moral turpitude; particularly in view of a statement by the U. S. Attorney in his brief that "Moral turpitude, or baseness, vileness or depravity are not required to be proven in this case" (Petn. p. 13). A fair reading of the appellate opinion (**U. S. v. MacLeod**, 436 F. (2d) 947, 8 Cir., 1971; cert. den. 402 U.S. 907, 990) will disclose the error of petitioner's contention. The U. S. Attorney was not contending in his brief that the quality of Mr. MacLeod's conduct did not rise (or descend) to the level of malevolance of moral turpitude, or that moral turpitude was of the same or a different scale or dimension of misbehavior. Rather, he was saying, as we do here, that that question was not a factor in the case. He stated succinctly that "willfulness is the mens rea requirement" of the statute—no more no less. (See App. B.)

The Eighth Circuit opinion did not mention the moral turpitude issue at all. It reviewed all the instructions which were given, and found them to be fair and appropriate. (**U. S. v. MacLeod**, *supra*, l.c. 950.) By implication, it approved the trial court's rejection of the petitioner's "moral turpitude" instruction. It affirmed the conviction. The most that can be said of the decision is that the Circuit Court did not rule on whether the offense involved moral turpitude, or whether it did not. The Supreme

Court denied certiorari. (See **MacLeod v. U. S.**, 402 U.S. 907, 990.)

We therefore submit that the petitioner's major premise is without support when he contends that the law of the criminal case is that his offense did not involve moral turpitude.

C. **The Instant Disciplinary Proceeding Is Altogether Separate and Distinct From the Criminal Case.**

The criminal case and this disciplinary case are entirely separate proceedings, before different tribunals, involving vastly different issues. The criminal case was concerned with whether petitioner, as a person (a potential taxpayer) willfully failed to make and file tax returns. This case relates to his fitness (or lack thereof) to continue as an officer of the court in a role embodying ethical standards immensely higher than the mere freedom from criminal intent and conduct.

Although professional disciplinary sanctions involve a type of punishment or penalty (**Spevack v. Klein**, 385 U. S. 511, 1967), their ultimate purpose is to protect the public, and ". . . for the purpose of preserving the courts of justice from the official ministration of persons unfit to practice in them" (**Ex parte Wall**, 107 U.S. 265, l. c. 288, 1882; See also **In Re Ruffalo**, 390 U.S. 544, 1968).

In the instant case, the Missouri Supreme Court, consistent with a long-standing policy, stated that:

> "We are mindful that the purpose of these proceedings is not to punish, but rather to preserve the courts and the profession from the ministrations of those who, by their actions, degrade the administration of justice and demonstrate their unfitness to serve the courts or officers thereof" (App. C. penultimate para-

graph; See also **In Re Randolph**, 347 S.W. (2d) 91, Mo. 1961, Cert. Den. 368 U.S. 916).

Since the two proceedings are so vastly different in nature and purpose, the disciplinary tribunal is charged with the duty, and also is vested with authority, to draw its own reasonable inferences from the fact of the petitioner's conviction of violation of the subject tax statute.

D. For Purpose of Regulating the Practice of Law, the Missouri Supreme Court Validly and Properly Treated Petitioner's Federal Conviction as Grounds for Disciplinary Action.

The petitioner asks the Court, in this disciplinary case, to declare a rule of law authoritatively defining the mens rea characteristics of federal income tax offenses, in terms of moral turpitude. Then he would transpose that raw criminal definition into the field of professional discipline. He seems to contend that moral turpitude should mean the same in disciplinary cases as it does in criminal cases, and that it should mean the same in every State which uses such phrase in its disciplinary code, particularly in connection with tax offenses. He argues, further, that there is no uniformity of view among the states with respect to the disciplinary significance of this type of misconduct, therefore to attain uniformity nationwide, there is a constitutional basis for review (See Petn. Sections II and III, p 15, *et seq.*).

In the first place, we do not agree that there is really the divergence of view among the States with respect to these tax offenses as is indicated by the petitioner. Of the cases mentioned in the A.L.R. article cited by the petitioner (59 A.L.R. (2d) 1398, Petn. p. 19), in States categorized as viewing tax convictions as not necessarily involving moral turpitude, all the convicted attorneys were

disciplined in one way and form or another, except three. Of the three not disciplined in the first instance, one's case was sent back for further investigation,[1] one's was dismissed with no discipline because the court did not look upon a plea of *nolo contendre* as the equivalent of a conviction of the tax offense,[2] and one's was dismissed outright because the state court apparently had no sympathy with a "net worth" type of prosecution.[3]

Secondly, as we shall demonstrate, there is no **constitutional** rule requiring uniformity among the states in disciplinary matters in any event.

This Court has never been prone (nor shown any desire) to substitute its judgment for the historical and traditional right of the highest courts of the States to regulate the practice of law in their jurisdictions—within constitutional bounds, of course.

> "That the states have broad powers to regulate the practice of law is, of course, beyond question." **(Mine Workers v. Ill. Bar Assn.**, 389 U.S. 217, l.c. 222, 1967)

> "It is not for this Court, except within the narrow limits for review open to this Court . . . to sit in judgment to Louisiana disbarments . . ." **(Thread v. U.S.**, 354 U.S. 278, l.c. 281, 1957)

Also,

> "Virginia undoubtedly has broad powers to regulate the practice of law within its borders; but we have had occasion in the past to recognize that in regulating the practice of law a State cannot ignore

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[1] **Re Hallinan**, 272 P.(2d) 768, Calif. 1954; Hallinan suspended for 3 years see 307 P.(2d) 1, Calif. 1957.

[2] **La. State Bar v. Connolly**, 20 So.(2d) 168, La., 1944.

[3] **Ky. State Bar v. Brown**, 302 S.W. (2d) 834, Ky. 1957.

the rights of individuals secured by the Constitution." (**Railroad Trainmen v. Virginia Bar**, 377 U.S. 1, l.c. 6, 1964; and see also **Konigsberg v. State Bar**, 353 U.S. 252, l.c. 273, 1957)

Only in instances where intervention is necessary to protect profound constitutional rights does this Court grant review. In the first **Konigsberg** case (353 U.S. 252), for example, the Court would not permit a state examining authority to intrude upon an applicant's freedoms of political expression and association. But, in the Second **Konigsberg** case (**Konigsberg v. State Bar**, 366 U.S. 36, 1961), the Court held that Konigsberg could be denied admission unless he answered questions relative to membership in the Communist party, which he had contended was a constitutional right of free speech and association. In **N.A.A.C.P. v. Button**, 371 U.S. 415, 1963, the Court recognized the States' traditional right to regulate the legal profession, but pointed out that federal limitations upon that right are appropriate when necessary to protect overriding constitutional rights of individuals; particularly in the absence of a showing of ". . . substantial regulatory interest, in the form of substantive evils flowing from petitioner's activities, which can justify the broad prohibition which it [the State] has imposed." (**N.A.A.C.P. v. Button**, *supra*, l.c. 444.) To the same effect, see **Railroad Trainmen v. Virginia Bar**, *supra*, l.c. 7-8).

As we interpret these and other decisions, this Court takes the position that it will not descend into a review of the policies of the State authorities in the field of professional discipline, so long as there is no clear deprivation of profound constitutional rights and so long as such policies bear some rational relationship to fitness or ability to practice law and are not discriminatory or arbitrary. (See **Schware v. Board of Bar Examiners**, 353 U.S. 232, 1957.)

This policy then recognizes the fact that there is no constitutional rule of uniformity throughout the nation, and indeed we submit that it leaves room for non-uniformity, except as noted above. As a matter of fact, this Court has recognized, and indeed held, that there is no requirement of complete harmony between the federal and the state courts in the field of professional discipline. Sixty years ago, in **Selling v. Radford**, 243 U.S. 46, 1917, it held that a disbarment by a State court would not necessarily be a basis for disbarment by this Court of the same lawyer for precisely the same misconduct. (See also **In Re Isserman**, 345 U.S. 286 (1953), and Rule 8, Supreme Court of the United States.) This doctrine was extended to the lower federal courts in **Thread v. United States**, *supra*, with the suggestion (as we interpret the comment) that perhaps the lower federal court would or might be justified in **not** going along with a State disbarment of a lawyer (l.c. 282).

In the area of moral turpitude as a basis for disciplinary action, so far as we can determine, this Court has deemed the phrase "good moral character" to mean the absence of moral turpitude, but in doing so, it looked to the State court for the definition of the phrase. (**Konigsberg v. State Bar**, 353 U.S. 252, supra, at page 263.) In **Schware v. Board of Bar Examiners**, *supra*, this Court specifically took note of the divergent views between some of the States as to the meaning and implications of moral turpitude (l.c. 243, footnote 11).

So we submit that uniformity among the States is not a constitutional requirement, and this is particularly true in the area of moral turpitude where the disciplinary authorities must exercise reasoned and mature ethical judgment and discretion.

E. Missouri acted reasonably and appropriately.

If it is within the area of competence of the Missouri Supreme Court to make the disciplinary determinations with respect to the implications of the convictions of its lawyers for tax offenses, as we believe we have established, then its disposition of the petitioner's case, and others precisely like it, was reasonable and appropriate.

At the time of the petitioner's conviction, there were three basic sources of Missouri law which bore upon the disciplinary aspects of such conviction. Section 484.190 (R.S.Mo.) empowered the Court to remove or suspend a lawyer "(1) If he be convicted of any criminal offense involving moral turpitude" (See App. D). Also, the Canon of Ethics, promulgated by the Supreme Court of Missouri, by virtue of its inherent power to regulate the bar of the state,[4] provided that a lawyer should not:

> ". . . by any misconduct, commit any offense against the laws of Missouri or the United States of America, which amounts to a crime involving acts done by him contrary to justice, honesty, modesty, or good morals . . ." (Rule 4.47, App. E).

Over the years, on a case by case basis, the Missouri Supreme Court has developed a definition of moral turpitude which more or less combines a dictionary definition with the above-quoted court rule, as follows:

> " 'Moral turpitude is an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellowman or to society in general, contrary to the accepted and customary rule of right and duty between man and man; everything done contrary to justice, honesty, modesty, and good morals' " (**In Re McNeese**, 142 S.W. (2d) 33-4, Mo., 1940).

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[4] See **Neibling v. Terry**, 177 S.W. (2d) 502, Mo., 1944.

From these two general sources of basic authority, the Missouri Supreme Court then took up the disciplinary import of tax convictions of lawyers, and specifically the "failure to file" cases. In 1953, in **In Re Burrus**, 258 S.W. (2d) 625, Mo., 1953, the Court clearly and explicitly held:

> "We think it quite clear and, accordingly, hold that his intentional failure to make returns as the law required constituted conduct involving moral turpitude within the meaning of both the statute . . . and our rule . . ." (l.c. 627).

Since that case, without deviation, the Missouri Court has expressly adhered to the same position **(In Re McMullin**, 370 S.W. (2d) 151, Mo., 1953, **In Re Lurkins**, 374 S.W. (2d) 67, Mo., 1964), and in the instant case it again reexamined and reiterated its position. (App. C).

When the highest court of a State expressly and authoritively construes a State statute (and *a fortiori,* its own rule), such construction becomes the law of such State. **(N.A.A.C.P. v. Button**, *supra*, see page 432) Here, we have the explicit, unswerving construction of the meaning of "moral turpitude" by the Missouri Supreme Court in the context of federal convictions for failure to file tax returns. There is no basis for the petitioner to contend (as he seems to do on page 20 of his petition) that there is not an adequate definition of moral turpitude or that the term is vague or uncertain. The law of Missouri was made explicit in the **Burrus** case some ten years before he committed the offense of which he was convicted. The law has been applied **uniformly** and has not and cannot be used as a sword to destroy exponents of unpopular causes as the petitioner suggests. (See Petn. p. 20)

The petitioner refers to the extra-territorial and extra-jurisdictional reach of the Missouri suspension order.

(Petn. pp. 19-20) The **Selling**, **Isserman**, and **Thread** cases, cited above, ruled that federal courts are free to and must in fact make their own intrinsic examinations of the quality of any alleged misconduct in cases coming before them based upon state disbarments. The several states, as we indicated above, have their individual professional standards of conduct against which any lawyer's conduct must be judged.

CONCLUSION

We respectfully submit that the petitioner has not been denied any constitutionally secured right, and that his petition should be denied.

Dated, at St. Louis, Missouri, this 28th day of September, 1972.

HAROLD W. BARRICK
FORREST M. HEMKER
CLYDE J. LINDE
C. WALLACE WALTER
J ANDY ZENGE, JR.
The Members of the Advisory Committee of the Missouri Bar Administration
Respondents

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APPENDIX

APPENDIX A

Portion of
Trial Court's Jury Instruction

U.S. v. MacLeod, E.D. Mo., 1969

"The word 'willful' as used in the statute involved in this case means voluntary, purposeful, deliberate, and with the specific intent to do that which the law forbids, as distinguished from accidental, inadvertent or negligent. The requirement that failure to make and file the returns in question be done willfully exists so that the accused will not be convicted of failing to make or file such returns because of mistake or inadvertence. If the jury believes that the defendant acted with negligence, inadvertence, mistake, or due to his good faith misunderstanding of the requirements of the law, his act was not willful. On the other hand, if his act was done with bad purpose either to disobey or disregard the law then his act was willful. In this connection you are instructed that the only bad purpose or evil motive which the Government must prove in this case is the deliberate intention not to file a return which the defendant knew the law required him to file so that the Government would not know the extent of his liability."

APPENDIX B

Excerpt From U.S. Attorney's Brief (p. 21)

Filed in
U.S. v. MacLeod
U.S. Circuit Court of Appeals for the Eighth Circuit

No. 20,106

"Instruction number 5 misstates the law and is quite misleading. Moral turpitude, or baseness, vileness or depravity are not required to be proven in this case. Wilfulness is the mens rea requirement, and instruction number 5 is clearly incorrect and was properly refused. The duties of the trial court as to instructions has been stated by this Court as follows:

> '. . . a trial judge, in formulating his charge, is entitled to use his own language and is not required to let counsel for either party put words into his mouth. If the charge is accurate and gives to the jury all of the law which it needs in order to reach a verdict, that is enough. A charge should be a concise statement of the claims of the parties, the issues of fact which the jury must decide, and the applicable law. It should not be a compilation of miscellaneous requested instructions'."

APPENDIX C

IN THE SUPREME COURT OF MISSOURI EN BANC

479 S.W. (2d) 443, Mo. 1972

In re: Douglas C. MacLeod — No. 57030

This is an original proceeding for disciplinary action filed in June, 1971, by the Advisory Committee, as informants, against Douglas C. MacLeod, a member of the bar of this court, as respondent.

Informants allege, in substance: (1) that respondent is, and has been since August, 1947, licensed to practice law in this state; (2) that in October, 1969, respondent was charged by a three-count indictment filed in the United States District Court for the Eastern District of Missouri with violation of the Internal Revenue Code of the United States[1] in that he failed to make an income tax return for each of the calendar years of 1963, 1964 and 1965[2]; (3) that respondent was tried by a jury and found guilty on all three counts; (4) that on January 5, 1970, respondent was sentenced by the trial judge to imprisonment for one year and fined $10,000.00 for the offense charged in Count I, but as to Counts II and III imposition of sentence was suspended and he was placed on probation for a period of five years, the probation to commence at the expiration of imprisonment imposed under Count I; (5) that the United States Court of Appeals for the Eighth Circuit affirmed the judgment of conviction and thereafter, in April, 1971,

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[1] 26 U.S.C.A. (I.R.C. 1954), § 7203.

[2] Count I charged that his gross income in 1963 was $35,133.56; Count II that his gross income in 1964 was $12,821.92; Count III that his gross income in 1965 was $18,143.53.

his petition for writ of certiorari was denied by the United States Supreme Court; (6) that pursuant to order of the court, respondent, in May, 1971, surrendered to serve and is now serving his sentence at the Medical Center for Federal Prisoners in Springfield, Missouri; (7) that the crime for which respondent was convicted involves moral turpitude and he should, therefore, be removed from the roll of attorneys licensed to practice law in this state and be disbarred as provided by § 484.240, RSMo. 1969, V.A.M.S., and under the inherent power of this court to admit and remove persons from the practice of law in this state. A copy of the record of conviction has been filed with the court.

Respondent filed his response to the allegations of informants by which he admits the allegations of fact, but denies informants' conclusion that the offense of failing to file federal income tax returns involves moral turpitude. Respondent further alleges that failure to file income tax returns does not constitute "• • • an offense involving moral turpitude as a matter of law in this particular case." In support of this position he further alleges (1) that at his trial in district court he requested and the court refused to give the following instruction:

> "The Court instructs the jury that you may not find the defendant guilty as to any count unless you find that the defendant acted as a result of his own moral turpitude, that is, as a result of baseness, vileness, or depravity in the private and social duties which according to the accepted standards of the time a man owes to his fellow man or to society in general."

(2) that the position of the government in the appeal to the Court of Appeals, as evidenced by a statement contained in its brief, was that respondent was not being tried for a crime involving moral turpitude, the statement being as follows:

"Instruction number 5 misstates the law and is quite misleading. Moral turpitude, or baseness, vileness or depravity are not required to be proven in this case. Wilfulness is the mens rea requirement, and instruction number 5 is clearly incorrect and was properly refused."

Respondent further alleges that to deprive him of the opportunity to practice law will constitute a deprivation of his property without due process of law, contrary to the provisions of Article I, § 10, Constitution of Missouri, and the Fifth and Fourteenth Amendments to the Constitution of the United States.

After hearing oral arguments of counsel the case was taken as submitted on the pleadings and briefs of the parties. No contention is made by respondent that he was denied procedural due process in connection with any of the proceedings prior to submission.

As indicated, the main question presented is whether or not willfully and knowingly failing to make a federal income tax return is an offense involving moral turpitude. Informants contend that it is, citing cases[3] in which this court has so held. Respondent, recognizing these decisions, contends to the contrary and suggests that the court reexamine its position in the light of decisions of other jurisdictions.[4]

Respondent also contends, more specifically, that the United States Court of Appeals, in affirming his conviction,[5] declared that on the facts of this case moral turpi-

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[3] In re Lurkins, Mo., 374 S.W.2d 67; In re McMullin, Mo., 370 S.W.2d 151; In re Burrus, Mo., 258 S.W.2d 625.

[4] For decisions from other jurisdictions he refers us to Annotation: State Court Disciplinary Action against Attorney for Federal Income Tax Conviction, 59 A.L.R. 2d 1398.

[5] United States v. MacLeod, 436 F.2d 947, cert. den., 91 S. Ct. 1378.

tude is not involved; that the law of this case was thus established and this court is bound thereby and may not discipline him.

We do not agree that the decision in United States v. MacLeod, supra, ruled the question and held as a matter of law that this offense did not involve moral turpitude. Furthermore, assuming for the purpose of discussion that it did so hold, we do not agree that that decision would represent the law of this case by which this court would be bound in determining whether the offense involves moral turpitude within the meaning of § 484.240 or our former Rule 4.47, V.A.M.R.[6]

In reexamining our position, as suggested by respondent, "• • • in the light of decisions of other jurisdictions • • •", we find that those decisions were considered by the court in In re Burrus, and In re Lurkins, supra. It appears from those decisions that the courts have not crystallized the concept of "moral turpitude" with a reasonable degree of certainty, especially as it relates to the personal or professional life of a lawyer. The solution obviously does not lie in a definition, for examination of the cases demonstrates that from the same definition different views have resulted. All seem to agree, however, that income tax evasion is reprehensible conduct and that it involves an intent to defraud. The cases range from decisions which hold that it may not be inferred from the fact of conviction alone that moral turpitude is inherent in the crime and which require further showing that the particular conduct charged was infected with moral turpitude to those decisions which hold that mere conviction of an attorney for this offense is evidence of conduct involving moral turpitude. This court has adopted the latter view. The court held in In re Burrus, supra, that an "• • • intentional failure to make returns as the law re-

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[6] Now Rule 4, DR 1-102, V.A.M.R.

quired constituted conduct involving moral turpitude within the meaning of both the statute, § 484.240 RSMo 1949, V.A.M.S., and our Rule 4.47." 258 S.W.2d at 627. In re Lurkins, 374 S.W.2d l. c. 68; In re McMullin, 370 S.W.2d l.c. 155. The question is well settled in this state and we are persuaded by our reexamination of the cases in other states that we should continue to maintain our present position.

Respondent should be disciplined. The limits to which that discipline should be extended have been given careful consideration. We are mindful that the purpose of these proceedings is not to punish, but rather to preserve the courts and the profession from the ministrations of those who, by their actions, degrade the administration of justice and demonstrate their unfitness to serve the courts as officers thereof. It is our judgment that an indefinite suspension will serve the ends of justice.

It is ordered that respondent be suspended indefinitely from the practice of law with leave to apply for reinstatement after expiration of eighteen months from the date of rendition of this decision upon a showing that he is a person of good moral character and fully qualified to be licensed as a member of the bar of Missouri.

All concur.

Fred L. Henley,
Judge

APPENDIX D

Revised Statutes Missouri, 1969

"484.190. Powers to Suspend or Remove.—Any attorney or counselor at law may be removed or suspended from practice in the courts of this state for any of the following reasons:

1. If he be convicted of any criminal offense involving moral turpitude;

2. If he unlawfully retain his client's money or if he is guilty of any malpractice, fraud, deceit or misdemeanor whatsoever in his professional capacity;

3. If he shall have been removed, suspended or disbarred from the practice of law in any other state or jurisdiction and shall fail to disclose such fact in his application for license to practice law in this state."

APPENDIX E

Missouri Supreme Court Rule

4.47

(From R.S. Mo. 1969, Vol. 5, p. 4322)

"4.47 **General Rule Governing Certain Conduct of Lawyers.** A lawyer should always maintain his integrity; and shall not willfully commit any act against the interest of the public; nor shall he violate his duty to the courts or his clients; nor shall he, by any misconduct, commit any offense against the laws of Missouri or the United States of America, which amounts to a crime involving acts done by him contrary to justice, honesty, modesty or good morals; nor shall he be guilty of any other misconduct whereby, for the protection of the public and those charged with the administration of justice, he should no longer be entrusted with the duties and responsibilities belonging to the office of an attorney."